IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.8371/07
Siya Ram Vs. State of Rajasthan and Ors.

9.10.2007

Hon'ble Mr. Justice Mohammad Rafiq

Smt. Naina Saraf for petitioner.
Shri B.K. Sharma, Dy GA for respondents.

Issue notice. Shri B.K. Sharma, learned Dy GA accepts notice on behalf of the respondents.

The grievance of the petitioner is that even though his daughter was raped and murdered and the charge-sheet against the culprits has been filed for offences under sections 376, 302 and 201 IPC, the arrest of only one accused has been made whereas other accused Mahendra Dutt Sharma, Rohitash Meena, Mahendra Meena have not been arrested in spite of

the fact that police has kept investigation pending against them under section 173(8) Cr.P.C. ever since the challan was filed. In fact, the statement of the prosecution witnesses so far recorded also reveals involvement of these three accused. On this premise, the prayer has been made for handing over the investigation of the matter to CBI. It is argued that those three persons are highly influential. The learned counsel for the petitioner has invited the attention of the court towards the statements of some of the witnesses namely Ramotar Sharma, Ram Khilari and Ramesh recorded under section 164 Cr.P.C. who categorically named these three persons yet the police did not take any action against them nor were they

arrested because they have the support of the highly influential persons. Taking advantage of this situation, these accused won over the aforesaid witnesses and ultimately they turned hostile. Even though, the investigation is kept pending under section 173(8) Cr.P.C. but that is only intended to protect these three culprits and give them the liberage to frustrate the ongoing trial so that the culprits may got scout free.

In the facts of the case, at this stage, I do not deem it necessary to consider the prayer of the petitioner for directing investigation of the matter by CBI. I however set the petitioner at liberty to make a representation to Director General of Police. If what the petitioner has stated is correct and as

the statements of these three witnesses would bear out what was the initial scenario, there was absolutely no reason why the police should have kept the investigation pending and yet at the same time not taken any action against remaining accused. In fact, the Public Prosecutor on the aforesaid witnesses hostiled filed an application under section 139 Cr.P.C. for their prosecution. It is a fit case in which the Director General of Police should get the matter thoroughly investigated into by a senior level official so as to ensure that culprits are brought to the books. The petitioner is, therefore, set at the liberty to make detailed representation to the Director General of Police indicating therein the relevant

documents. It is expected of the Director General of Police to get fair investigation of the matter done particularly when the investigation under section 173(8) Cr.P.C is still pending and file supplementary charge-sheet within 60 days of the copy of the representation submitted before him. A copy of this order be sent to the Director General of Police, Rajasthan for necessary compliance.

With these observation, this writ petitioner is disposed of.

(Mohammad Rafiq),J.

Rs/-